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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in Burundi

Report of the Secretary-General

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Introduction

1. On 9 March 1994, at its fiftieth session, the Commission on Human Rights adopted, without a vote, resolution 1994/86 entitled "Situation of human rights in Burundi". In the preamble to the resolution, the Commission indicated its deep concern at the inter-ethnic violence since the attempted coup d'état on 21 October 1993, involving loss of human life and violations of human rights in Burundi. It also expressed concern about the mass exodus of persons from Burundi who have fled their country to take refuge in neighbouring countries and the large number of persons displaced within the country.

2. Convinced that consolidation of democratic gains helps to create a favourable environment for lasting settlement of the ethnic tension that has brought bloodshed to the country over the past 30 years, the Commission strongly condemned the brutal break in the democratic process initiated in Burundi and demanded an immediate end to acts of violence. It also invited the international community to continue to lend its political, diplomatic, material and financial support to end the violence, to help the Government of Burundi to find a lasting solution to the ethnic tension and to create conditions to favour the return of the refugees.

3. The Commission further noted with satisfaction that the Secretary-General had responded immediately to that situation by sending a special envoy with a good-offices mission so as to facilitate the restoration of the constitutional regime. It also welcomed the appointment by the Secretary-General of a Special Representative for Burundi and efforts aimed at setting up an international mission of inquiry charged with establishing the facts surrounding the attempted coup d'état and the resulting violence and with providing advice to facilitate the efforts of the Government of Burundi and the Organization of African Unity (OAU). In addition, the Commission invited the authorities of Burundi to carry out a prompt inquiry into the violations of human rights resulting from the attempted coup d'état, as well as the inter-ethnic massacres, and to bring the persons responsible for those acts of violence before the courts.

4. Lastly, the Commission requested the Secretary-General to report to it at its fifty-first session on the situation of human rights in Burundi, on the basis of all relevant information, and encouraged the Government of Burundi to request technical assistance to strengthen the structures for the promotion and protection of human rights, more particularly through the advisory services programme of the Centre for Human Rights, in close cooperation with the Secretary-General's Special Representative for Burundi.

5. By note verbale dated 25 March 1994, the Secretary-General transmitted a copy of resolution 1994/86 to the Ministry of Foreign Affairs and Cooperation of the Republic of Burundi, indicating that he would welcome any information or comments that the Government of Burundi might wish to submit concerning that resolution. The Government has not yet replied to the Secretary-General's communication, notwithstanding several reminders from the Secretariat. If it reaches the Secretariat in time, any reply from the Burundi authorities will be reproduced in an addendum to the present report.

6. At its forty-sixth session, in Geneva, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted without a vote, on 25 August 1994, resolution 1994/17 concerning the situation in Burundi. In the resolution, the Sub-Commission stated its conviction that the impunity enjoyed by the perpetrators of gross and massive human rights violations, such as the assassination of the President of the Republic, the massacres of innocent civilians at the instigation of some government officials and the subsequent repression by the army using, in many instances, excessive force, provoked an unending cycle of acts of collective vengeance. The Sub-Commission therefore urged the authorities of Burundi to carry out an inquiry into summary and arbitrary executions, to punish those responsible, to disarm the population and to repress all forms of encouragement of racial hatred. It also encouraged the efforts of the High Commissioner for Human Rights, the Centre for Human Rights and non-governmental organizations to accelerate the establishment of a programme of assistance in Burundi and expressed the hope that an initial mission, having as its main objective the bringing of assistance to Burundi, would be appointed by the Secretary-General of the United Nations and that, as a preventive measure, the Secretary-General would have recourse to the competent organs of the United Nations. Lastly, the Sub-Commission called on the Special Representative of the Secretary-General for Burundi, the High Commissioner for Human Rights, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Commission on Human Rights to invite the competent authorities to strengthen their surveillance of the human rights situation in Burundi, sending out observers with a view to preventing any re-emergence of violence.

7. At its forty-ninth session, the United Nations General Assembly, on 25 October 1994, adopted resolution 49/7, entitled "Regional conference on assistance to refugees, returnees and displaced persons in the Great Lakes region", in which it noted the effective action taken by the Secretary-General and his Special Representative for Burundi and the important role played by the Secretary-General of OAU and his Special Representative for Burundi. The General Assembly requested Member States, the bodies of the United Nations system and intergovernmental and non-governmental organizations to provide Burundians, inter alia, with: (a) support for the national programmes to restore confidence among the various elements of the Burundi people, especially by deploying civilian human rights observers to back up the local administration; (b) financial and technical assistance to strengthen the capacity of the country's judicial system in order to break the cycle of impunity and enable the Burundi authorities to bring to justice the perpetrators of the attempted coup d'état of October 1993 and of the subsequent ethnic massacres; and (c) assistance in the dismantling of the secret pirate radio station "Rutomorangingo" and of any other instrument of propaganda undermining the patient efforts to achieve national reconciliation.

8. Lastly, the General Assembly endorsed fully the wish of the Heads of State and Government of African countries to convene a regional conference for assistance to refugees, returnees and displaced persons in the Great Lakes region and consequently invited the competent bodies of the United Nations system to take part in the implementation of such an initiative. It also encouraged the Secretary-General of the United Nations and the Secretary-General of OAU to continue their efforts to normalize the situation in Burundi, which remained precarious and worrisome. Lastly, it requested the

Secretary-General of the United Nations, in close collaboration with the Secretary-General of OAU and the United Nations High Commissioner for Refugees, to mobilize resources for that purpose.

9. Chapter I of the present report deals with the activities of the Secretary-General under his good-offices mission. Chapter II describes the activities of the High Commissioner for Human Rights. Chapter III summarizes the activities of the Representative of the Secretary-General on internally displaced persons, special rapporteurs and working groups of the Commission on Human Rights and the treaty bodies concerning Burundi. Chapter IV sets out information from United Nations agencies. The final chapter consists of a digest of information contained in the reports brought to the Secretary-General's attention by non-governmental organizations.

I. ACTIVITIES OF THE SECRETARY-GENERAL UNDER HIS GOOD-OFFICES MISSION

10. The Secretary-General of the United Nations involved himself in the search for a peaceful solution in Burundi as soon as the crisis in that country erupted on 21 October 1993. During the putsch attempt, the democratically-elected Head of State and several of his staff were assassinated. Inter-ethnic massacres (of 100,000 people) ensued. After immediately dispatching a special envoy to evaluate the situation, on 19 November 1993 the Secretary-General appointed a Special Representative, Ambassador Ahmedou Ould-Abdallah (Mauritania), to monitor developments in Burundi with the following mandate: to foster dialogue between the political partners; to re-establish the democratic institutions overthrown by the attempted coup d'état; to begin an inquiry into the acts connected with the events of October; and to cooperate with, and assist, the OAU mission in Burundi.

11. Immediately on his arrival in Burundi on 25 November 1993, the Special Representative of the Secretary-General set to work, contacting political, religious, military, economic and social leaders. He also met women's and young people's groups, and representatives of the diplomatic community and the United Nations system. In a few weeks, the work of the Special Representative of the Secretary-General helped very significantly to renew the dialogue between the different political, civilian, military, religious and other factions. Shortly thereafter, the various institutions were re-established: the President of the National Assembly, on 23 December 1993; the President of the Republic, elected on 13 January 1991 by Parliament after a constitutional amendment, took the oath on 5 February; and a National Unity Government was appointed on 11 February. A mission of inquiry into the events, composed of Ambassadors Ake and Huslid, was appointed by the Secretary-General to begin work in Burundi. In less than three months, the mandate of the Special Representative's mission was largely fulfilled.

12. While the Special Representative, thanks to support from the diplomatic community and Burundi leaders, was continuing his efforts to strengthen the new institutions, the newly-elected President, Cyprian Ntaryamira, together with the President of Rwanda, was killed when the plane in which they were travelling was shot down on 6 April 1994 at Kigali. A new mission then began: to preserve stability in Burundi, to prevent the events in Rwanda from spreading to Burundi and to help set up new institutions. After several

months of extremely difficult negotiations, 12 political parties signed a Convention on Governance on 10 September 1994. The Convention organized the sharing and management of power for the period up to June 1998. Shortly after the signing of the Convention on Governance, a President was elected on 30 September 1994. He took the oath the same day. A new coalition Government was set up on 5 October 1994.

13. However, only a few weeks after the establishment of the Government, a small group of extremist opposition politicians attempted to destabilize the situation in Burundi, in particular in the capital, Bujumbura; these extremists used various means of intimidation and reckless terrorism, primarily through militias composed of young people. The police and gendarmerie were powerless if not accommodating, and proved to be ineffective. According to official statements by the president of one of these opposition parties, the objective for 31 January 1995 is "to overthrow the present Government, by all appropriate means and at all costs".

14. Despite the very serious crisis throughout the subregion and the prevailing insecurity, Burundi has not lapsed into horror and chaos. The United Nations will continue to play its role as mediator in consolidating the situation, fostering the international inquiry into the events of October 1993 and preparing for the national debate to lay the foundations for peaceful and lasting cohabitation between the Hutu and Tutsi communities. The national debate is to begin in April-May 1995.

II. ACTIVITIES OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

A. Preliminaries to the activities of the High Commissioner for Human Rights

15. As indicated in General Assembly resolution 48/141 of 20 December 1993, one of the principal responsibilities of the High Commissioner for Human Rights is to play an active role in removing the current obstacles and in meeting the challenges to the full realization of all human rights, and in preventing the continuation of human rights violations throughout the world. Experience has shown that, in appropriate circumstances, the provision of advisory services and technical assistance can act as a considerable brake on human rights violations.

16. The case of Burundi is significant in this respect. Several months before the assassination of President Ntaryamira, the Centre for Human Rights was already holding talks with the Burundi Government with a view to setting up a programme of advisory services and technical assistance. Immediately after taking up his post, the High Commissioner expressed the desire that this programme should begin, especially after the events of April 1994.

17. During a first mission to Bujumbura in May 1994, the High Commissioner secured the agreement of the Government and the Acting President for the opening of a Centre for Human Rights office in Bujumbura. He also made an appeal to the international community for the financing of the work of the office. During his second mission to Burundi, on 18 and 19 August 1994, the High Commissioner informed the Burundi authorities that the international

community had responded positively to his appeal, which would make it possible to increase the staff of the Centre's new office to 10 or so, in order to give effect to the Burundi authorities' request.

18. Finally, on 2 September 1994 the High Commissioner signed an agreement with the Government of Burundi for the purpose of the execution of the programme of advisory services and technical assistance, the main features of which are listed below:

(a) Training and educational activities in the field of human rights, particularly for Judiciary, police, gendarmerie and military personnel;

(b) Advisory services by human rights experts for the military and the Judiciary;

(c) Human rights exchange programmes;

(d) Human rights documentation;

(e) Promotional activities for a human rights culture;

(f) Strengthening the Centre for Human Rights office in Bujumbura; and

(g) Assistance for human rights promotional activities of national NGOs, such as the two human-rights leagues.

19. It should also be noted that the General Assembly, in resolution 49/7 of 25 October 1994 on the situation in Burundi, welcomed the action of the High Commissioner and of the office which he had established in Burundi.

20. Below is a description of the activities conducted under the above-mentioned programme of technical assistance.

B. Activities conducted

1. Activities in the field of training and information

21. The Centre for Human Rights office in Bujumbura began its activities on 15 June 1994. It is directed by a coordinator, assisted by three locally-recruited programme officers in charge of communications, training and education, and legal matters respectively. The coordinator has established ongoing working relationships with the various components of Burundi society, in order to adjust activities to the expectations of the authorities and the people.

22. The programme of advisory services and technical assistance currently being conducted places particular emphasis on:

(a) Human rights training: Three training seminars were held from August to November 1994. The first, in cooperation with the Centre for the Promotion of Human Rights in Bujumbura, brought together 30 or so trainers from the Judiciary, army and gendarmerie, and also national NGOs and the press. A second training seminar on the promotion of peace and reconciliation

as major factors contributing to the realization of human rights brought together 76 participants chosen primarily from among the members of the Government, Parliament, the armed forces, the police, the gendarmerie, the political parties, the Church, trade unions, magistrates, women's and young people's associations, journalists and human rights organizations. A third training seminar on human rights and the role of the Judiciary in a democratic society was held for judges, lawyers and prison staff.

(b) Production of teaching materials: This is indispensable in order to make human rights education feasible and to enable trainers to do their work. The programme of technical assistance provides for a significant media component, including television and radio programmes and the development of other media-related products: posters, stickers, textbooks, packs of cards for distribution in schools, dioramas on human rights and a booklet for primary school pupils on the main principles contained in the Universal Declaration of Human Rights.

(c) Recording and broadcasting of monthly television and radio programmes on human rights: One of these, entitled "Points of reference", is broadcast in French. Three other programmes are devoted to article 1 of the Universal Declaration of Human Rights, to social welfare and health (in cooperation with the WHO office in Bujumbura), and to the right to education.

2. Assistance to institutions

23. An evaluation mission consisting of two experts travelled to Bujumbura in September 1994 to assess the actual situation of the army, the gendarmerie and the police, and to determine the assistance to be given to those institutions from the standpoint of the teaching of human rights and the implementation of human rights principles in everyday life. One of the experts had numerous meetings with representatives of the Judiciary in order to discuss with the Burundi authorities the setting-up of a training programme for magistrates, lawyers and court officers. Until now, the justice rendered by magistrates appointed on the basis of their law degree but having no experience has been contested by those affected by it. Training will therefore be provided as from January 1995 in the Faculty of Law for students hoping to become magistrates, as will retraining for older magistrates.

3. Activities intended for young people

24. A youth camp, known as the "Camp for reconstruction and education in peace and human rights", has been organized in conjunction with UNDP and UNESCO and with the support of local NGOs and the Human Rights Promotion Centre in Bujumbura. This pilot project is arousing great hopes of contributing to reconciliation among young people. The aim is to combine rehabilitation and reconstruction activities with sessions of training in human rights and peace.

C. Cooperation established with the Special Representative of the Secretary-General and UNDP

25. The programme projects have been executed in close cooperation with the office of the Special Representative of the Secretary-General. The Special

Representative has been invited to all meetings and training courses organized by the Centre for Human Rights office in Bujumbura. The office has also received the support of the national authorities and all parties concerned at the national level, and also the assistance of the UNDP office in Burundi.

D. Comments and expected results

26. The current assistance programme in the field of human rights has been set up to provide Burundi with technical and institutional support with a view to the promotion and protection of human rights. It is raising great hopes both in the Government, which needs to prove its determination to establish a democratic regime that respects human rights in the face of an opposition shocked by the recent events in Rwanda, and among the population groups, where the rights of all - members of the majority and the minority - must be guaranteed.

27. The programme is viewed favourably by the various strata of society in Burundi and is arousing genuine interest among the political authorities, who have expressed the desire that young people should play a large part in the execution of some of the projects. It is therefore important that the international community should respond to those hopes and ensure the success of this assistance programme in a particularly sensitive region. Close cooperation with all United Nations bodies working locally must be ensured, in order to strengthen the image of the cohesiveness of the system and the impact of the message.

III. ACTIVITIES OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL ON INTERNALLY DISPLACED PERSONS, SPECIAL RAPPORTEURS AND WORKING GROUPS OF THE COMMISSION ON HUMAN RIGHTS, AND THE TREATY BODIES CONCERNING BURUNDI

A. Activities of the Representative of the Secretary-General on internally displaced persons

28. The action taken by the Special Representative of the Secretary-General on internally displaced persons, as regards Burundi, is described in detail in his report to the Commission (E/CN.4/1995/50/Add.2). As soon as he took up his duties, the Representative of the Secretary-General paid priority attention to the problem of displaced persons in Burundi, a problem which is particularly acute in this country because of the serious ethnic tensions with which it has been afflicted for several years. Some 500,000 displaced persons (figure for early October 1994), out of a total population of approximately 5.5 million, are in need of protection and assistance.

29. Responding to an invitation extended by the Government of Burundi in 1994 to travel to that country, the Representative of the Secretary-General visited Burundi from 30 August to 4 September 1994. He travelled to four provinces where there are large populations of displaced persons, namely, Kayanza, Kirundo, Muyinga and Muramvya. He noted that the main cause of displacement in Burundi is the ethnic conflict, in which Hutus and Tutsis clash on major issues such as the sharing of power and national resources or the questions of education and employment in public services and the economy. Displacement has thus become the fate of many Burundians. Although it is difficult to check

owing to the diversity of means of travel, the number of displaced persons in Burundi - most of whom are women and children - is estimated at approximately 300,000, with a group of some 14,000 displaced persons in Bujumbura itself. No region of the country has been spared by this phenomenon.

30. The representative of the Secretary-General also noted that the phenomenon of displacement, which has become endemic in Burundi since the early 1970s, has seriously disrupted the functioning of public services, hospitals, schools and society in general. This situation is also having repercussions on the land ownership regime, the allocation of land and even the redistribution of land, and rarely leads to the formulation of appropriate title deeds. This problem, which is already affecting four fifths of the population of Burundi, is being further aggravated by the return of former refugees or repatriated persons. The large number of persons displaced following the events of October 1993 has, moreover, considerably disrupted farming work and exhausted the food reserves of a country which had habitually been self-sufficient in this respect.

31. In his report to the Commission, the Representative underlined the importance of various regional parameters, namely, the proximity of Rwanda, certain analogies between that country and the situation in Burundi, and the subversive attraction which Rwanda's recent history exerts on the protagonists in the ethnic conflict in Burundi. The repercussions of the genocide in Rwanda will continue to be felt in the region for several decades at least. In this connection, the Representative of the Secretary-General noted that Burundi had not yet ratified the Convention on the Prevention and Punishment of the Crime of Genocide, which has so far been ratified by 90 States.

32. In his conclusions and recommendations to the Commission, the Representative of the Secretary-General emphasized that the division of the country on ethnic lines would be out of the question, given the fact that the two ethnic groups are closely intermingled. In his opinion, the only possible way out of the conflict would be a functional compromise based on reform of the land regime, the armed forces and the Judiciary, notably with regard to the questions of impunity and compensation of victims. The identification and punishment of the perpetrators of massacres are, in his view, essential for the restoration of a climate of confidence in the rule of law and the judicial system.

33. The Representative of the Secretary-General considers that the evolution of the country will depend to a large extent on progress made in creating an awareness of human rights at all levels of the civilian and military administration. He recommends that the technical assistance project of the Centre's advisory services branch should be staffed by more international personnel and that close collaboration should be established with international agencies such as UNHCR or UNICEF, in coordination with all the activities of the Special Representative of the Secretary-General for Burundi.

34. The Representative of the Secretary-General expresses the wish that the problem of displacement suffered by Burundi can be considered at a subregional conference, which should study all questions relating to refugees, questions which are particularly difficult in Central Africa. A subregional approach to these questions should be based on the evaluation of the respective roles

played by the special envoys of the Secretary-General for Rwanda and Burundi and those of the High Commissioner for Refugees. For its part, OAU should also be called upon to consider the possibility of taking appropriate regional initiatives.

B. Activities of the Special Rapporteur on extrajudicial, summary or arbitrary executions

35. The action taken by the Special Rapporteur in respect of alleged extrajudicial, summary or arbitrary executions in Burundi is described in detail in his report to the Commission (E/CN.4/1995/61, paras. 76 to 80). Between March and April 1994 the Special Rapporteur sent three urgent appeals to the Government of Burundi. The first expressed concern at the massacre by soldiers of some 50 civilians in January and February, and of more than 200 unarmed civilians in early March in the Kamenge area of Bujumbura. After receiving reports of further massacres in Kamenge and other districts of Bujumbura, the Special Rapporteur urged the authorities, in his second appeal, to take steps to limit acts of violence, which were frequently attributable to the disproportionate use of force. The third appeal concerned a group of Rwandese refugees, including the former Procurator-General at the Court of Appeal, who had allegedly been detained at Bujumbura airport before being sent to Bukavu (Zaire), where their lives were feared to be at risk owing to the presence of Government forces. Shortly afterwards, the Government of Burundi replied to the most recent appeal by the Special Rapporteur, informing him that the Procurator-General had left Burundi for Belgium, while the 186 refugees had been transported to Bukavu at their request.

C. Activities of the Special Rapporteur on the question of torture

36. The action taken by the Special Rapporteur on the question of torture in respect of Burundi is described in detail in his report to the Commission (E/CN.4/1995/34, para. 81). During the past year, the Special Rapporteur sent an urgent appeal to the Government of Burundi concerning 9 men who had reportedly been among a group of 27 persons arrested in April 1994 in the course of an operation carried out by the security forces to disarm the civilian population in the Kamenge district of Bujumbura. It was reported that they were taken to the National Police College (ENAPO) and then to the Special Search Squad, where they were severely beaten and subjected to other forms of torture. The Government has so far provided no information on their fate.

D. Activities of the Working Group on Enforced or Involuntary Disappearances

37. The action taken by the Working Group on Enforced or Involuntary Disappearances in respect of Burundi is described in detail in its report to the Commission (E/CN.4/1995/36, paras. 97 to 103). During 1994, the Working Group referred nine reported cases of disappearance to the Government of Burundi under the urgent action procedure. With one exception, the cases concerned persons of Hutu origin who had allegedly been assembled and detained in April 1994 by members of the security forces in a playground. These persons, who were suspected of possessing weapons, were reported to have been taken away to an unknown destination.

38. The Working Group noted that, according to the information received, no measure had yet been taken to end the impunity enjoyed by the armed forces in Burundi. As to the Judiciary, its present administrative structure was described as far from adequate to prosecute effectively all those responsible for the latest human rights violations. The main obstacles are reportedly the lack of human and financial resources, the observed imbalance in ethnic representation, and poor standards of impartiality and independence.

E. Treaty bodies

39. Burundi is a party to the main international instruments: the International Covenant on Economic, Social and Cultural Rights (1990); the International Covenant on Civil and Political Rights (1990); the International Convention on the Elimination of All Forms of Racial Discrimination (1977); the International Convention on the Suppression and Punishment of the Crime of Apartheid (1978); the Convention on the Elimination of All Forms of Discrimination Against Women (1992); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1993); and the Convention on the Rights of the Child (1990).

1. Comments of the Human Rights Committee

40. During the past year, Burundi submitted, on 12 July 1994, a report to the Human Rights Committee under article 40 of the International Covenant on Civil and Political Rights. The Committee considered the report on 25 July during its fifty-first session, and adopted its comments thereon on 28 July (see CCPR/C/79/Add.41).

41. The Committee noted that, since its accession to independence, Burundi had regularly had to contend with serious conflicts between the Hutu majority and the Tutsi minority, largely attributable to socio-political difficulties inherited from the past. Those conflicts, particularly the most recent one in autumn 1993, following the assassination of the President of the Republic, had been marked by gross violations of human rights. The lack of effective measures following such events, as well as the de facto impunity enjoyed, regardless of rank, by members of the army, police, gendarmerie, security forces or administration responsible for serious violations of human rights, were obstacles to the restoration of lasting peace and to the halting of the cycle of violence between the Hutu majority and the Tutsi minority.

42. The Committee also noted that the dominance in the army, the police, the gendarmerie, the security forces, the judicial system and, generally, the most senior civil-service posts of persons belonging to a minority group was a factor constantly and seriously affecting the application of the Covenant and one which continually aroused the fears of the majority of the population.

43. The Committee deplored the massacres following clashes between Hutu and Tutsi that had occurred in Burundi since its consideration of the initial report in October 1992, and the increasingly serious obstacles to the peaceful co-existence of the various elements of the Burundi population. The attempts to restore civil peace, to assuage the tensions of daily life in society and to redress the balance in the various State institutions, particularly the

army, the police, the gendarmerie, the security forces and the Judiciary, so as to make them more representative of the various elements of the population, had clearly failed.

44. The Committee also deplored the pattern of gross violations of human rights in the form of numerous summary executions, disappearances and instances of torture which occurred following the events of autumn 1993. The army, the police, the gendarmerie and the security forces had continued to be responsible for many violations of human rights. The civilian population continued to be armed and further violations of human rights are to be feared.

45. The Committee further deplored the lack of any inquiry into the above-mentioned violations. The perpetrators had remained unpunished and continue to perform, and sometimes to abuse, their functions in the army, police, gendarmerie or security forces. The victims or their families had received no compensation of any kind. The Judiciary had shown itself incapable of carrying out its duties independently and impartially and had been unable to initiate the necessary investigations or bring those responsible to trial. Furthermore, the fact that the commissions of inquiry recently set up to identify those responsible for human rights violations consisted of individuals belonging to only one of the country's population groups was a source of serious concern and had served only to shake the population's confidence in the authorities and exacerbate strife and violence between the various population groups.

46. The Committee also noted that the use of the media to incite hostility and violence among the various population groups constituted a clear violation of the provisions of article 20 of the Covenant.

47. In its suggestions and recommendations to the Government of Burundi the Committee urged it to initiate without delay a process of national reconciliation. This process should be accompanied by various specific measures, such as the establishment of commissions of inquiry made up of members of each of the country's population groups. Impartial foreign observers could participate in the inquiries in order to identify those responsible for gross violations of human rights in the autumn of 1993, to bring them to trial and punish them, and to remove all persons involved in such crimes from the various State bodies, particularly the army, the police, the gendarmerie and the security forces. The victims and their families should also be compensated.

48. The Committee believed that it was essential to take urgent measures to reorganize public institutions, so as to ensure balanced participation by all population groups in the conduct of public affairs and to permit all citizens, without distinction, to have access to public service, in the administration, the army, the police, the gendarmerie, the security forces and the Judiciary. In addition, the Committee considered that the army should be brought under the effective control of the civilian authorities. In view of the considerable difficulties encountered by the State party in implementing the Covenant, the gross violations of human rights which had occurred in autumn 1993, and the serious danger of a recurrence of such violations, the Committee

was of the view that, in its efforts at internal pacification and national reconciliation, Burundi should receive the resolute support of the international community.

49. Lastly, the Committee recommended that the High Commissioner for Human Rights should continue to make efforts to help Burundi avoid any future recurrence of gross violations of human rights, for example, by encouraging the establishment of international investigation machinery and of a programme of technical assistance with the support of the United Nations Centre for Human Rights.

2. Action by the Committee on the Elimination of Racial Discrimination

50. The Committee on the Elimination of Racial Discrimination, for its part, described the action taken on Burundi in its report to the General Assembly (A/49/18, paras. 30 to 52). In view of reports of ethnic conflict in Burundi, the Committee decided at its forty-first session to request, in accordance with article 19, paragraph 1, of the Convention, further information from the Government of Burundi on that conflict and on its implications for the implementation of the provisions of the Convention. No written reply having been received, the Committee finally reviewed the implementation of the Convention in Burundi at two meetings on 9 March 1994 attended by the representative of the State party.

51. Following the explanations given by the representative in reply to questions and observations from members, the Committee adopted conclusions on 17 March, highlighting its principal subjects of concern. In particular, it expressed shock over the outbreak, once again, of massive ethnically-motivated violence in Burundi and the subsequent systematic human rights violations to which members of both the Hutu and Tutsi communities had been subjected. It also expressed concern that the recurrent violence constituted a serious impediment to peace, stability and respect for human rights in the region. It noted with alarm that there was no effective prohibition of incitement to such violence either in the armed forces and the police or among the general public. Finally, it drew attention to the inadequate response of the international community to assist Burundi in dealing with the serious and difficult problems confronting it.

52. In its suggestions and recommendations, the Committee strongly recommended that decisive steps be taken immediately at the international, regional (through OAU) and national levels, and through the Secretary-General of the United Nations, to break the vicious cycle of ethnic violence and atrocities that continued to erupt regularly in Burundi. To that end, the Committee supported the call of the Government of Burundi for international cooperation to assist it in its efforts to restore stability and to strengthen democratic institutions. The Committee also emphasized the need to restructure the military, the police and the public service in order to bring them under effective civilian control, and to take steps to foster, at all levels of society, a dialogue of reconciliation which included the military and other security forces. The Committee further recommended that major reform of the Judiciary be undertaken and stressed that adequate legal safeguards must be put in place to ensure the security of members of all ethnic communities and their access to effective judicial recourse.

53. It should be noted that in the decision adopted by the Committee on the Elimination of Racial Discrimination concerning the situation in Burundi on 16 August 1994, it recommended that the Secretary-General and competent United Nations organs, such as the Security Council, should consider urgent measures in cooperation with OAU with a view to avoiding a new human tragedy in Burundi. The Committee also welcomed the establishment by the High Commissioner for Human Rights of an office of the Centre for Human Rights in Bujumbura. In addition, it expressed its support for the programme of technical assistance for Burundi, invited Governments of States parties to make substantial contributions in order to ensure its success, and expressed its readiness to cooperate with the High Commissioner in the fields of its competence concerning legislative, administrative and judicial reform and the training of government officials and magistrates.

IV. INFORMATION FROM UNITED NATIONS AGENCIES

54. The question of refugees, returnees and displaced persons in Burundi remains crucial for the country's future. The following information provided by the United Nations High Commissioner for Refugees (UNHCR) is indicative of the complexity of the problem and the urgent need to try to find solutions.

55. While the monitoring of the overall situation continued, UNHCR increased its field presence in 1994, particularly in the northern provinces, where the refugees are located. All actions to ensure the basic protection of the people concerned were carried out, in close collaboration with the OAU international mission to Burundi, as well as with ICRC and the Centre for Human Rights.

Refugees

56. After the April crisis in Rwanda, thousands of Rwandese Tutsis fled from their home country. By mid-May 1994, some 65,000 persons had sought refuge in Burundi and were regrouped at six sites in northern Burundi. Following the victory of the Rwandese Patriotic Front (RPF), these people started returning home in a spontaneous fashion, permitting the closure of the sites where they had been settled.

57. Parallel to this movement, a new influx started in the border area with the arrival of Hutu refugees. Most of them came from Bugesara, Butare and Gitarama, fearing retribution by the RPF. Like the Tutsi refugees, they were also of rural origin. UNHCR, in collaboration with the Burundi Government identified eight sites in the northern provinces of Kirundo, Kayanza, Ngozi and Muyinga, and transferred the refugees from the transit sites.

58. As of December 1994, the total number of Hutu Rwandese refugees was 200,000. Seven camps currently operate in the provinces of Kirundo, Ngozi and Muyinga, providing the beneficiaries with the assistance of the international community. It is expected that basic conditions in the camps ought to be met by the end of 1994.

Returnees and internally displaced persons

59. It is considered that nearly 500,000 Burundi refugees regained their home country during 1994. Assistance to this population has often been disrupted by the lack of security in the areas of return and the sudden new influx of Rwandese refugees. The dispersion of places of return also hampered effective implementation of the assistance. UNHCR provided selective assistance to this population through the distribution of seeds and basic non-food items. Also, several multi-sectoral Quick Impact Projects (QIPS) were implemented in areas such as water, health and education.

60. In conjunction with the returnee programme, UNHCR has also provided limited support to the internally displaced persons in those areas where UNHCR intervened in support of returnees and refugees. Support to the local hospitals, implementation of mobile dispensaries as well as provision of construction materials, contributed significantly to the rehabilitation of the country. This assistance was aimed not only at facilitating the smooth reintegration of Burundi returnees but also at promoting the return of the affected population to their original "collines". Various United Nations agencies also participated in this process with the distribution of food and agricultural tools and the provision of nutrition and health services.

Security concerns

61. The fragile security situation in Burundi remained of utmost concern for the effective implementation of assistance and the protection of the people at risk in 1994. A strong Burundi military presence (Tutsi) in the camps of Rwandese Hutu refugees and their firm position against the free movement of refugees often caused serious protection problems. The strong control exercised by the Burundi army has resulted in killings of refugees outside the camps. The situation was sometimes aggravated in the border area, where an RPF presence was often reported. It will be recalled that some 50 refugees were killed in the area in November 1994. All the above led to the continued departure of refugees to neighbouring countries, particularly Tanzania. However, the existence of elements of the former Rwandese armed forces and interahamwe militias was reported in some camps and among the Burundi population of Hutu origin, who sometimes resorted to armed action, which, though limited, provoked a sharp reaction from Tutsi internally displaced persons and uncontrolled elements in the army.

62. Progress in assisting the returnees and internally displaced persons has also been limited by continued violence in the country, which did not permit the affected population to return safely to their homes. At present some 100,000 internally displaced persons are still regrouped in sites for fear of persecution upon return to their villages.

Towards a durable solution

63. UNHCR will focus its 1995 activities on the organized voluntary repatriation and continued assistance to Rwandese refugees, and assistance to Burundi returnees and internally displaced persons. Along these lines, continued support will be extended to the Burundi Government for the achievement of the planned objectives. In this connection, and despite the

difficulties, the Burundi Government will continue with its commitment to find a solution for the safe return of Burundi refugees and internally displaced persons, as well as to give asylum to the Rwandese refugees.

64. As a first step, the Government signed a tripartite agreement on voluntary repatriation of Rwandese refugees in December 1994, with the Government of Rwanda and UNHCR. This will certainly help to facilitate the negotiations regarding the return of refugees in safety and dignity. The Government will also host the Regional Conference on Assistance to Refugees, Returnees and Internally Displaced Persons in the Great Lakes Region in Bujumbura in February 1995. The countries concerned, the international community, OAU and UNHCR will address the problem in a subregional context, which will serve as an important step towards the definitive solution of a problem of such magnitude.

65. UNHCR will actively support the aforementioned process and continue its efforts to make government officials aware of the need to promote the basic rights of refugees. A first seminar on the principles of refugee law was conducted in December 1994, to which civil and military authorities were invited. The initiative was greatly welcomed by the Government.

V. INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS

66. This chapter contains the essential information brought to the attention of the Secretary-General by various non-governmental organizations, such as Amnesty International, the international commission of inquiry into human rights (composed of six non-governmental organizations), the International Federation of Human Rights, Human Rights Watch/Africa and the World Organization Against Torture. Other information was also transmitted to the Secretary-General by the Committee of Solidarity for Peace in Burundi (Geneva), the Burundi Human Rights League "Iteka" and the United States Committee for Refugees.

A. General situation in Burundi in 1994

67. All the information received from non-governmental organizations corroborates the information transmitted to the Secretary-General through other channels. The following paragraphs highlight the most significant parts of their contributions in so far as they relate to the current situation.

68. Most non-governmental organizations stress that the persons responsible for the series of massacres which took place between 1965 and 1993 have never been prosecuted or brought to justice following an investigation ordered by the authorities. The impunity enjoyed by most of the government and security forces officials who ordered, committed or tolerated such acts has reportedly prompted members of the two main ethnic groups in Burundi to take justice into their own hands and led to repeated waves of violence which are now the main cause of the serious problems in Burundi. The government commission of inquiry set up in December 1993 as a result of the events of October has never initiated the necessary investigations.

69. With regard to the events which followed the coup d'état of 21 October 1993, the international commission of inquiry conducted by six non-governmental organizations in Burundi from 27 January to 10 February 1994 reached the following main conclusions in its report:

(a) The armed forces were directly or indirectly responsible for the massacres, and actively or passively participated in the assassination of President Ndadaye;

(b) The wave of violence was a direct consequence of the coup attempt and the death of the President;

(c) In some parts of Burundi, Hutus, at times guided by local authorities, systematically killed Tutsis and their Hutu allies;

(d) The armed forces, at times collaborating with Tutsis, systematically killed Hutus during reprisal attacks or used disproportionate force for the purpose of maintaining law and order.

70. This situation created a growing feeling of insecurity in the two communities and, according to the information received, prompted the civilian population of parts of Bujumbura that were mostly Hutu or mostly Tutsi to acquire large numbers of firearms and use them to kill or displace members of the other ethnic group.

B. Right to freedom of movement and freedom to choose one's residence within a State

71. The information from NGOs transmitted to the Secretary-General in June and September 1994 corroborates the findings of his Representative on internally displaced persons (see paras. 28 to 34). There are still reported to be many camps in Burundi for displaced persons and returnees who are allegedly being prevented from going home by security problems that are made even worse by the impunity which criminals enjoy at the scene of their crimes and by their freedom to take innocent persons hostage. Rwandese refugees in camps in Burundi are facing food shortages, epidemics and lack of hygiene in the camps as a result of the water shortage in the northern part of Burundi. Some of them are reported to have gone back to Rwanda. In the province of Kirando, the camps are said to be deserted, with only elderly persons left; there are reports, not confirmed by UNHCR or the provincial Governor, that about 100 of the refugees who recently arrived in the commune of Bugabira were killed on 11 June 1994.

C. Violations of the right to life and physical integrity

72. In addition to the information already provided in the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (see para. 35), more recent reports were transmitted to the Secretary-General by various non-governmental organizations.

73. On 10 June 1994, a group of 150 armed civilians were seen in a district of Bujumbura. When the police tried to remove them, fighting broke out and many people were killed, including women and children. On the same day, in the province of Kayanza, some 15 persons were reported to have been killed in clashes with the police which also involved looting and fires.

74. During the same period, the situation in secondary schools was disturbing: in at least three of them, and in particular at Bulengo high school, some 15 students and parents were killed and 13 persons were injured in ethnic clashes.

75. From June to August 1994, there was serious unrest in several communes in the province of Kayanza; this caused the death of at least 100 persons, together with considerable property damage. In Muzamvya province, several hills covering the territory of six communes experienced similar violence, perpetrated in some places by armed gangs and reportedly followed by reprisals by the armed forces, former soldiers and even displaced persons.

76. According to reports received, on 4 September 1994 men armed with rifles, grenades and knives attacked the market and church in Muramba, Buhinyuza commune, Muyinga province. During a service conducted by the Bishop of Muyinga, a number of individuals allegedly killed three worshippers in the church itself, as well as six others who were trying to escape from the church; several charred bodies were later found in the bush nearby and others were found in abandoned houses. The provisional death toll was 123.

D. Torture and inhuman or degrading treatment

77. Recent information supplements the report of the Special Rapporteur on the question of torture (see para. 36). From 26 May to 1 June 1994, 18 persons were allegedly arrested in the provinces of Karuzi and Gitega by members of the security forces and severely tortured; one is in very serious condition. All these persons were being detained without charges in Gitega prison. On 13 September 1994, a radio announcer in Buyenzi was reportedly arrested by a gendarme in uniform and taken to the Special Investigation Squad, where he was insulted, robbed of his personal effects, handcuffed, beaten and finally thrown into a cell, before being beaten up again in front of the other prisoners. He was allegedly released three days later in a pitiful state.

E. Enforced or involuntary disappearances

78. Further to the report of the Working Group on Enforced or Involuntary Disappearances (see paras. 37 and 38), new disappearances have been reported: on 14 September 1994, a group of 13 persons were forced to board a military vehicle and taken to the Special Investigation Squad or the National Police College during an operation to remove Kamenge inhabitants who were being held in a playground. These persons have not returned home and are on the list of detainees transferred to a prison in Mpimba two days later.

F. Prohibition of any incitement to war, hatred or violence

79. The latest information received reports an upsurge in calls for war, violence and hatred, in violation of article 20 of the International Covenant on Civil and Political Rights. The calls have been broadcast by the media, some of which are reportedly private or clandestine, such as Radio Rutomorangingo, but the persons responsible have not been prosecuted or troubled in any way. Newspapers such as Le Carrefour des Idées, L'Aube, Le Témoin, Nyabusorongo, L'Eclaireur and Le Miroir have reportedly helped to spread messages of hatred and violence. Other newspapers, on both sides, directly and indirectly incite interethnic violence by means of coded messages. The non-governmental organizations have denounced the authorities' failure to take any action following these developments.

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